

Memorandum

TO: COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE

FROM: Kim Walesh
Harry Freitas
Julie Edmonds-Mares

**SUBJECT: DOWNTOWN HIGH RISE
DEVELOPMENT INCENTIVES**

DATE: September 12, 2014

Approved



Date

9/12/14

COUNCIL DISTRICT: # 3

RECOMMENDATION

Forward the following recommendations to the City Council for consideration:

1. Adopt a resolution modifying the 2,500 unit limit of the 2007 Parks Specific High Rise Incentive Program to add 50 units to the maximum limit of units that are eligible to receive the incentive and sunset the program by June 30, 2016 even if the unit count is not reached.
2. Update the City Council on the Administration's workplan and timeline to establish a Downtown Parks Maintenance District for high rise and mid rise residential projects.
3. Direct the City Attorney to draft an ordinance amending Chapter 4.46 of Title 4 of the San Jose Municipal Code and Chapter 4.47 of Title 4 of the San Jose Municipal Code to add sections to suspend the collection of the building and structure construction tax for a single commercial high rise development project within two years.

BACKGROUND

In 2007, the City Council approved an incentive for Downtown High Rise residential construction by reducing the parkland in-lieu fees by 50%. This incentive was capped at 2,500 units. To date, approximately 1,522 high rise units have been constructed Downtown and received reductions in parkland fees totaling \$11.8 million. In addition, the City approved further incentives in 2012 including:

- a. Permit Expeditor and Streamlined Planning
- b. 50% Reduction of Building and Structure Construction Tax
- c. 50% Reduction of Commercial-Residential-Mobilehome Park Building Tax
- d. Park Fees (modification to the Downtown High rise fee)
- e. Inclusionary Requirements
- f. Waiver of Parking Minimum Requirements
- g. Occupancy of Lower Floors

San Jose has four construction-related taxes, but only two have been used related to Downtown high rise incentives. The first is the Building and Structures Tax (SJMC 4.46), and the second is the Construction Excise Tax (SJMC 4.47). These two taxes make up the majority of the Traffic Capital Improvement Program funding.

On June 11, 2014 the City Council directed the City Manager to return to Council to expand the 2007 Parks Specific High Rise Incentives Program to add 50 units to allow current pipeline projects to participate in the program. The City Council further directed the City Manager to establish a Downtown Parks Maintenance District for high rise and mid rise residential projects.

ANALYSIS

The 2007 and 2012 incentive programs have been successful at infusing millions of dollars in private investment into Downtown.

Since that time Downtown has seen considerable momentum in the residential high and mid rise development. The initial development period brought the 88, AXIS, City Heights and 360 Residences and has been followed by the current development cycle with the development of One South Market Centerra, symphony and the Pierce. There are a number of other high rise and mid rise developments proposals that are either in negotiations, preliminary design, or in other permit process. The goal of adding 10,000 residential units in the Downtown is important and the 2007 and 2012 incentive programs have been crucial in jumpstarting residential development.

The initial incentive program related to parkland in-lieu fees was intended to expire after the 2,500th downtown high rise unit received its building permit. Currently approximately 1,522 units have been built or are under construction and the next three high rise projects in the pipeline (Silvery Towers, Parkview Towers and Post/San Pedro) will bring the total to slightly over 2,500 units.

At the June 17, 2014 city council meeting staff was directed to increase the total units allowed to receive the incentive by 50 units to 2,550 in order to ensure that the final project receiving the incentive can receive it for the whole project, not just a portion of the project. Consistent with Council direction the proposed resolution adds approximately 50 units to the total. Based on the current status of permits for downtown high rise projects, the final three projects that are expected to receive this incentive are:

- Silvery Towers – approximately 612 units
- Parkview Towers – approximately 216 units
- Post/San Pedro development – approximately 182 units.

Based on communication with the developers, all three of the above projects are anticipated to enter construction prior to June 30, 2016 which would cause the 2007 high rise incentive program to automatically sunset. However, in order to allow the City to move from the 2007 incentive program to the new program discussed below it is proposed that the 2007 incentive program will sunset June 30, 2016 even if the 2,500 unit limit is not reached at that time.

Downtown Parks Maintenance District – Workplan and Timeline

As mentioned in the background section of this memorandum, the City Council directed the City Manager to establish a Downtown Parks Maintenance District for high rise and mid rise residential projects. This significant body of work has been recommended by the City Manager to be included in the “Top 10 Priority Ordinances for 2014-2015” and was approved by the City Council on September 9, 2014. Staff is currently researching alternatives and is proceeding on the following schedule for this project.

Schedule	Work
June – October	Conduct and finalize research on alternatives (Best-Practices, legal, policy impacts and policy questions)
Late October	Seek City Council policy direction on various proposals and alternatives including type of district, new developments vs. existing and district boundaries.
November – January	Community Outreach Proposal / Recommendation Development
February 2015	City Council approval of specific policy direction and workplan to establish district
Late 2015 (<i>potentially earlier, timeline dependent upon steps necessary to establish district</i>)	Establishment of park maintenance district or other policy alternative as approved by council

Currently staff is focusing on three different alternatives to present to council for consideration in October. These alternatives are as follows:

- A parks maintenance district with boundaries that match the downtown core. This would require all property owners in the downtown core to pay into the district; and
- A noncontiguous park maintenance district that includes only new high rise and mid rise residential construction projects; and
- Park maintenance agreements with developers of new high rise and mid rise residential construction projects.

The research of alternatives will include best practices and lessons learned from other cities such as Seattle, San Francisco and Chicago. Staff will also evaluate and seek input on a governance model to provide direction and oversight of the use of potential future parks maintenance district funding.

High Rise Development Incentive for Employment Uses

The 2007 and 2012 Downtown high rise incentives for residential have helped spur the development Downtown is seeing today. While we are seeing increasing activity in the Downtown economy, one key area has not rebounded: new commercial high rise construction.

This is due to many factors, such as increased construction costs, Downtown's commercial vacancy rate, Downtown rental prices and market-place acceptance.

In 2012 the Downtown commercial vacancy had risen to nearly 30%. With the elimination of the Redevelopment Agency and State's Enterprise Zone it left the City with minimal tools to attract and retain businesses. Yet, the City, through various public-private partnerships and the Parking Incentive Program, focused efforts over the past two years to lower the vacancy rate. Currently the Office of Economic Development in partnership with the San Jose Downtown Association and private sector is aggressively working with the existing building owners to attract new businesses to Downtown. Today, the commercial vacancy rate is 13% and continues to go down. Today, the Downtown business community includes 90 technology companies, 60 in creative and design and over 1,200 in business services. If the commercial vacancy rate continues to go down the ability to add more jobs to Downtown will become more difficult without the additional commercial development.

To help catalyze commercial development in the Downtown City staff will continue to aggressively work on retaining, expanding and attracting businesses to the Downtown, but also believes a one-time incentive could help spur commercial development as it did with residential development.

At this time, the Administration is recommending a high rise incentive program focused on a single project for employment uses. The incentive program proposed by staff would suspend the collection of construction taxes and construction excise tax for new high rise project for employment uses (Office R&D, Hotel and Office) within the next 27 months, ending by December 31, 2016 (building permit). For the purposes of this incentive, staff is using a local definition of high rise building: 150 feet in height or taller vs. the Building Code definition of 75 feet. The 150 foot number has been used by the City for years to designate appropriate for incentives (2012 Residential High Rise Incentive Programs) and achieving our development goals.

EVALUATION AND FOLLOW-UP

Staff will be returning to the City Council for policy direction around the formation of a Parks Maintenance District. Staff will continue to track the number of residential units in the Downtown and the rate of development in addition to any possible high rise commercial projects and report as appropriate to the Community and Economic Development Committee.

PUBLIC OUTREACH/INTEREST



Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater.

(Required: Website Posting)

- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's web site for the Council agenda. Additionally, city staff shared Council's June 17, 2014 direction with the Parks and Recreation Commission at their September 3, 2014 meeting. Lastly, staff has met on several occasions with developers and property owners active in Downtown as a group and individually to solicit ideas on what would encourage high rise development in the near term.

COORDINATION

This memorandum was coordinated with the Department of Transportation, the City Manager's Budget Office, and the City Attorney's Office.

BUDGET IMPACT

The Building and Structures Tax (SJMC 4.46), and the Construction Excise Tax found at SJMC 4.47, (also known as the CRMP Tax) fund the majority of the Traffic Capital Improvement Program. The proposed temporary incentive program would result in the loss of up to \$1.5 million to \$2 million.

The total value of the of increasing the 2007 parkland incentive program by 50 units is \$382,500 for, which is lost revenue that would support construction of parks, trails and community centers in the downtown area.

CEQA

Not a Project, File No.PP10-067 (Statutory Exemption, Sec. No. 15273), Rates, Tolls, Fares, and Charges.

/s/

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/s/

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HONORABLE MAYOR AND CITY COUNCIL

September 12, 2014

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/s/

JULIE EDMONDS-MARES

Director

Parks, Recreation & Neighborhood Services

For questions please contact Lee Wilcox, Downtown Manager & Assistant to the City Manager,
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